REMARKS

By this amendment, Claims 6, 12 and 14 are canceled and Claims 1, 8, and 16 are amended. The specification is also amended. In view of the amendments and remarks, Applicant respectfully asserts that the objections and rejections are now moot, and that pending claims are in condition for allowance.

Drawing Objections

The Office Action objects to the drawings under 37 CFR 1.83(a) because they fail to show invisible IFRAME 200 as described in the specification. Applicant has amended the specification, as detailed above, to correct errors in reference characters. Specifically, IFRAME 200 was not illustrated in the drawings because the reference number was mislabeled in the specification. The specification has been amended to correctly identify the reference IFRAME 107 (in place of IFRAME 200). Reference character 107 is shown in the drawings and it is believed that no new matter is added by this amendment. Therefore, Applicant requests that the objection under 37 CFR 1.83(a) be canceled.

Claim Rejections – 35 U.S.C. §103

In the Office Action, Claims 1, 2, 3 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bates et al., U.S. Patent No. 5,907,681 ("*Bates*") in view of the HTML 4.0 Sourcebook, by Graham ("*Graham*"). Claims 5, 6 and 7 were also rejected under 35 U.S.C. §103(a) as being unpatentable over the above combination, in further view of Javascript: The Definitive Guide, by Flanagan ("*Flanagan*") or U.S. Patent No. 6,499,054, to Hesselink et al. ("*Hesselink*"). Additional obviousness rejections of Claims 8-21 included combinations of *Bates*, *Graham*, with U.S. Patent No. 6,385,510, to Hoog et al. ("*Hoog*"), in combination with the other references cited above.

A. Teachings of *Bates* and *Graham*

Bates is recited in the office action as the primary reference used in the obviousness rejections of each of the pending claims. *Bates* generally discloses a computer program product and method **for refreshing an entire web page** at once (see, e.g., col. 4, lines 26-31; col. 3, lines 10-16). Therefore, *Bates* does not describe the refreshing of an object on a web page, but the entire page. Specficially, *Bates* teaches the use of an object in a webpage that automatically

requests updates of the web page from a server. As noted in the Office Action, however, the webpage object that requests that the web page be refreshed is not invisible; i.e., it is not a frame having zero height and weight (see Office Action, page 4).

Because *Bates* does not suggest that the object may be an invisible frame, the Office Action further relies on *Graham*, which is an HTML Sourcebook that teaches that a frame may be clipped to hide layers with respect to other layers shown on a web page (see page 412, paragraph titled "Clipping and Visibility"). The Office Action states that the claims of the present invention were obvious in view of those references (and often in combination with the other cited references) because it would have been obvious to those of ordinary skill in the art to use the invisible frame, as taught by *Graham*, in the system of *Bates*, to provide the functions of the present invention.

B. The Amended Independent Claims Are Patentable

Independent claims 1 and 16 have been amended to recite that the updating of the at least one updateable object updates only a portion of the web page, as distinguished from the entire webpage. Further, independent Claim 8 has been amended to recite that the invisible frame causes the updateable object to display the second state of the condition without refreshing the entire webpage. Neither *Bates* or *Graham*, alone or in combination, teach such elements.

First, as noted above, *Bates* does not describe the refreshing of an object on a web page. Rather, *Bates* only discloses the refreshing of an entire page. As disclosed in the background section of the present patent application, this is substantially different and may result in delays where a web-page is content-rich:

> Many current implementations of dynamic webpages require that the webpage be frequently refreshed in order to display the newest information. A refresh action may be automatic (e.g., initiated by a timer) or may be initiated manually by the user. Manually refreshing a webpage consumes the user's time and attention. Additionally, **refreshing a webpage requires that the entire webpage be reloaded, introducing significant time losses from retransmitting information that has not changed.** ... Thus, there is a need in the art for a method of **updating objects contained within a webpage without requiring either a manual or automatic refresh of the webpage** or the use of a Java applet.

See Application, Pages 1 and 2 (emphasis added).

Graham discloses nothing more than methods for creating an invisible layer. Therefore, there is no suggestion in *Graham* or *Bates* for an object that updates only a portion of a page, or for an active and invisible object that updates a portion of a page. Furthermore, there is no suggestion in either of the references as to why the combination should have been made.

As indicated by the Federal Circuit, an Examiner can satisfy a burden of obviousness in light of a combination of references "only by showing some objective teaching [leading to the combination]" In re Fine, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1998). Therefore, combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability. That is the essence of improper hindsight reasoning. See, e.g., Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985). Applicants admit that though the range of sources available as evidence of motivation can flow from the prior art references themselves, *or one of ordinary skill in the art*, the showing of motivation must be clear and particular. See, e.g., C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1352 (Fed. Cir. 1998). Thus, broad conclusory statements regarding the teaching of multiple references, standing alone, are not "evidence." See, e.g., McElmurry v. Arkansas Power & Light Co., 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

Applicant respectfully asserts that there is no support for motivation to combine the references other than the Office Action's conclusory assertion that the references could and would be combined in order to achieve the features of the present invention. As noted above, nothing in *Bates* suggests that a portion of a web page should be refreshed, rather than an entire page, and nothing suggests the reason why an object should be hidden to accomplish the task of refreshing an entire page.

Applicant respectfully asserts that none of the additional references teach the elements disclosed in the independent claims, as amended. Therefore, applicant asserts that the amended independent claims are patentable over each of the recited references. Furthermore, because independent Claims 1, 8, and 16 are patentable, the dependent claims are allowable as a matter of law.

Conclusion

It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,

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I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on November 18, 2003, with sufficient postage as first-class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

William R. Silverio